

Review of: "[Essay] Not Quite Like Us? — Can Cyborgs and Intelligent Machines Be Natural Persons as a Matter of Law?"

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Potential competing interests: No potential competing interests to declare.

(A metanote: I've never written a public peer-review report like this before. I'm not sure about the format; it might be better to just discuss these matters directly with the author - but this is certainly an interesting experiment. I also feel I couldn't devote as much time to this review as I would have wanted to, but I figured it's better to just get it done. So my apologies in advance, and I encourage the author to make contact if they want to discuss these issues further.)

This is an impressive essay. Especially the first half raises interesting questions about the borders of humanity that I had not considered before. However, there were still some things I was left wondering about.

The essay asks whether cyborgs and intelligent machines can be classified as natural persons. I understand legal personhood to be a cluster property, meaning that being a legal person involves, roughly, having a "bundle of rights", even if this bundle can vary quite significantly. On the other hand, I take natural personhood to be a relatively specific bundle, which human beings are endowed with when they are born (with regard to *passive legal personhood*) and which grows into active, independent legal personhood as they grow older. However, I wasn't sure whether the author really was discussing the "full" bundle all the time (having a status more or less identical to human beings) or perhaps something more limited. Perhaps, instead of thinking about natural personhood, the author was actually interested in what Simon Chesterman calls "intrinsic reasons" for endowing some entity with legal personhood, or perhaps merely with some incidents of legal personhood? Basically, a machine could be treated human-like in some contexts, and not in others. For instance, I find that whether AI systems can be inventors is really quite distant from whether robots should have "human rights", and perhaps the reason is that AI inventorship can be justified instrumentally: there may be economic reasons, for instance, to recognise AIs as inventors.

The author claims that corporations are mere legal constructs, 'created and devised by human laws for the purposes of society' (Blackstone, cited in Pettit, 2015, at 390) more recently essentially to shield shareholders from liability (Clepley, 2013)". However, the notion of corporations should not be equivocated with limited liability companies; the idea of corporations in a broader sense goes back to Roman law. The author here also seems to endorse a social-ontological position about corporations, which can be contested; I don't think corporations would be mere legal constructs in the sense meant by the author. (They are of course legal constructs in a broader sense, much like the legal personhood of human beings is a legal construct.)

I do encourage the author to take a look at literature addressing legal personhood in a broader context, such as Ngaire Naffine's work and - awkwardly - mine. For instance, there is also a discussion on whether legal personhood can be ascribed to any entity, as the author claims. (I disagree with the author's claim.)

Finally, some minor points:

- The term "legal person(hood)" is occasionally used to refer to both human beings and artificial persons, but sometimes only the latter, as the author does. I think "artificial person" is a less ambiguous label for the latter category.
- "nonhuman animals are patentable in many jurisdictions, but humans are not" - these are probably animal species or something like that, not the animals themselves? I'm not sure what patenting an individual animal means.